



General Assembly

***Substitute Bill No. 5065***

*February Session, 2002*

***AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD MITIGATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2002*) (a) As used in this  
2       section, "floodplain" means that area of a municipality located within  
3       the real or theoretical limits of the base flood or base flood for a critical  
4       activity, as determined by the municipality or the Federal Emergency  
5       Management Agency in its flood insurance study or flood insurance  
6       rate map for the municipality prepared pursuant to the National Flood  
7       Insurance Program, 44 CFR Part 59 et seq.

8       (b) Whenever a municipality, pursuant to the National Flood  
9       Insurance Program, 44 CFR Part 59 et seq., is required to revise its  
10      zoning regulation or any other ordinance regulating a proposed  
11      building, structure, development or use located in a floodplain, the  
12      revision shall provide for restrictions for flood storage and conveyance  
13      of water for floodplains that are not tidally influenced as follows:

14      (1) Within a designated floodplain, encroachments resulting from  
15      fill, new construction or substantial improvements, as defined in 44  
16      CFR Part 59.1, involving an increase in footprint to the structure shall  
17      be prohibited unless the applicant provides to the zoning commission  
18      certification by a registered professional engineer that such  
19      encroachment shall not result in any increase in base flood elevation;

20 (2) The water holding capacity of the floodplain shall not be reduced  
21 by any form of development unless such reduction (A) is compensated  
22 for by deepening or widening the floodplain, (B) is on-site, unless  
23 adjacent property owners grant easements or the municipality in  
24 which the development is located authorizes off-site reduction, (C) is  
25 within the same hydraulic reach and a volume not previously used for  
26 flood storage, (D) is hydraulically comparable and incrementally equal  
27 to the theoretical volume of flood water at each elevation, up to and  
28 including the hundred year flood elevation, which would be displaced  
29 by the proposed project, and (E) has an unrestricted hydraulic  
30 connection to the same waterway or water body; and

31 (3) Work within adjacent land subject to flooding, including work to  
32 provide compensatory storage, shall not restrict flows resulting in  
33 increased flood stage or velocity. Any compensatory storage may be  
34 provided off-site if authorized by the municipality.

35 (c) Notwithstanding the provisions of subsection (b) of this section,  
36 a municipality may adopt more stringent restrictions for flood storage  
37 and conveyance of water for floodplains that are not tidally influenced.

38 Sec. 2. Section 16a-27 of the general statutes, as amended by section  
39 3 of public act 01-9 of the June special session, is repealed and the  
40 following is substituted in lieu thereof (*Effective October 1, 2002*):

41 (a) The secretary, after consultation with all appropriate state,  
42 regional and local agencies and other appropriate persons shall prior  
43 to March 1, 2003, complete a revision of the existing plan and enlarge it  
44 to include, but not be limited to, policies relating to transportation,  
45 energy and air. Any revision made after May 15, 1991, shall identify  
46 the major transportation proposals, including proposals for mass  
47 transit, contained in the master transportation plan prepared pursuant  
48 to section 13b-15. Any revision made after July 1, 1995, shall take into  
49 consideration the conservation and development of greenways that  
50 have been designated by municipalities and shall recommend that  
51 state agencies coordinate their efforts to support the development of a

52 state-wide greenways system. The Commissioner of Environmental  
 53 Protection shall identify state-owned land for inclusion in the plan as  
 54 potential components of a state greenways system. Any revision made  
 55 after March 1, 2003, shall (1) take into consideration risks associated  
 56 with natural hazards, including, but not limited to, flooding, high  
 57 winds and wildfires; (2) identify the potential impacts of natural  
 58 hazards on infrastructure and property; and (3) make  
 59 recommendations for the siting of future infrastructure and property  
 60 development to minimize the use of areas prone to natural hazards,  
 61 including, but not limited to, flooding, high winds and wildfires.

62 (b) Thereafter on or before March first in each revision year the  
 63 secretary shall complete a revision of the plan of conservation and  
 64 development.

65 Sec. 3. Subdivision (4) of subsection (a) of section 7-536 of the  
 66 general statutes, as amended by section 2 of public act 01-197, is  
 67 repealed and the following is substituted in lieu thereof (*Effective*  
 68 *October 1, 2002*):

69 (4) "Local capital improvement project" means a municipal capital  
 70 expenditure project for any of the following purposes: (A) Road  
 71 construction, renovation, repair or resurfacing, (B) sidewalk and  
 72 pavement improvements, (C) construction, renovation, enlargement or  
 73 repair of sewage treatment plants and sanitary or storm, water or  
 74 sewer lines, including separation of lines, (D) public building  
 75 construction other than schools, including renovation, repair, code  
 76 compliance, energy conservation and fire safety projects, (E)  
 77 construction, renovation, enlargement or repair of dams, bridges and  
 78 flood control projects, (F) construction, renovation, enlargement or  
 79 repair of water treatment or filtration plants and water mains, (G)  
 80 construction, renovation or enlargement of solid waste facilities, (H)  
 81 improvements to public parks, (I) the preparation and revision of local  
 82 capital improvement plans projected for a period of not less than five  
 83 years and so prepared as to show the general description, need and  
 84 estimated cost of each individual capital improvement, (J)

85 improvements to emergency communications systems, (K) public  
86 housing projects, including renovations and improvements and energy  
87 conservation and the development of additional housing, (L)  
88 renovations to or construction of veterans' memorial monuments, (M)  
89 improvements to information technology systems to manage the  
90 century date change effect, as defined in section 4d-16, (N) thermal  
91 imaging systems, (O) bulky waste and landfill projects, [and] (P) the  
92 preparation and revision of municipal plans of conservation and  
93 development adopted pursuant to section 8-23, provided such plans  
94 are endorsed by the legislative body of the municipality not more than  
95 one hundred eighty days after adoption by the commission, and (Q)  
96 floodplain management and hazard mitigation activities. "Local capital  
97 improvement project" means only capital expenditures and includes  
98 repairs incident to reconstruction and renovation but does not include  
99 ordinary repairs and maintenance of an ongoing nature.

100 Sec. 4. (NEW) (*Effective October 1, 2002*) The Commissioner of  
101 Environmental Protection shall develop guidelines to be used by  
102 municipalities in revising ordinances restricting flood storage and  
103 conveyance of water for floodplains that are not tidally influenced.  
104 Such guidelines shall include, but not be limited to, a model ordinance  
105 that may be used by municipalities to comply with the provisions of  
106 section 1 of this act. The commissioner shall make the guidelines  
107 available to the public.

108 Sec. 5. Subsection (d) of section 20-327b of the general statutes is  
109 repealed and the following is substituted in lieu thereof (*Effective*  
110 *October 1, 2002*):

111 (d) (1) The Commissioner of Consumer Protection, shall, by  
112 regulations adopted in accordance with the provisions of chapter 54,  
113 prescribe the form of the written residential disclosure report required  
114 by this section and sections 20-327c to 20-327e, inclusive. The  
115 regulations shall provide that the form include information concerning  
116 municipal assessments, including, but not limited to, sewer or water  
117 charges applicable to the property. Such information shall include: (i)

118 Whether such assessment is in effect and the amount of the  
119 assessment; (ii) whether there is an assessment on the property that  
120 has not been paid, and if so, the amount of the unpaid assessment; and  
121 (iii) to the extent of the seller's knowledge, whether there is reason to  
122 believe that the municipality may impose an assessment in the future.

123 (2) Such form of the written residential disclosure report shall  
124 contain the following:

125 (A) A certification by the seller in the following form:

126 "To the extent of the seller's knowledge as a property owner, the  
127 seller acknowledges that the information contained above is true and  
128 accurate for those areas of the property listed. In the event a real estate  
129 broker or salesperson is utilized, the seller authorizes the brokers or  
130 salespersons to provide the above information to prospective buyers,  
131 selling agents or buyers' agents.

T1 .... (Date) .... (Seller)

T2 .... (Date) .... (Seller)"

132 (B) A certification by the buyer in the following form:

133 "The buyer is urged to carefully inspect the property and, if desired,  
134 to have the property inspected by an expert. The buyer understands  
135 that there are areas of the property for which the seller has no  
136 knowledge and that this disclosure statement does not encompass  
137 those areas. The buyer also acknowledges that the buyer has read and  
138 received a signed copy of this statement from the seller or seller's  
139 agent.

T3 .... (Date) .... (Seller)  
T4 .... (Date) .... (Seller)"

140 (C) A statement concerning the responsibility of real estate brokers  
141 in the following form:

142 "This report in no way relieves a real estate broker of the broker's  
143 obligation under the provisions of section 20-328-5a of the Regulations  
144 of Connecticut State Agencies to disclose any material facts. Failure to  
145 do so could result in punitive action taken against the broker, such as  
146 fines, suspension or revocation of license."

147 (D) A statement that any representations made by the seller on the  
148 written residential disclosure report shall not constitute a warranty to  
149 the buyer.

150 (E) A statement that the written residential disclosure report is not a  
151 substitute for inspections, tests and other methods of determining the  
152 physical condition of property.

153 (F) Information concerning environmental matters such as lead,  
154 radon, subsurface sewage disposal, flood hazards and such other  
155 topics as the Commissioner of Consumer Protection may determine  
156 would be of interest to a buyer.

157 (G) A statement that information concerning the residence address  
158 of a person convicted of a crime may be available from law  
159 enforcement agencies or the Department of Public Safety and that the  
160 Department of Public Safety maintains a site on the Internet listing  
161 information about the residence address of persons required to register  
162 under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

163 Sec. 6. Section 22a-27j of the general statutes is repealed and the  
164 following is substituted in lieu thereof (*Effective July 1, 2002*):

165 (a) Any person, firm or corporation, other than a municipality,  
166 making an application for any approval required by chapters 124, 126,  
167 440 and 444 shall pay a fee of ten dollars, in addition to any other fee  
168 which may be required, to the municipal agency or legislative body  
169 which is authorized to approve the application. On and after July 1,  
170 2002, the fee shall be twenty dollars. Such municipal agency or  
171 legislative body shall collect such fees, retaining [one dollar] two  
172 dollars of such fee for administrative costs, and shall pay the  
173 remainder of such fees quarterly to the Department of Environmental  
174 Protection and the receipts shall be deposited into an account of the  
175 State Treasurer and credited to the Environmental Quality Fund  
176 established pursuant to section 22a-27g. The portion of such fund  
177 attributable to the fees established by this section shall be used by the  
178 Department of Environmental Protection as follows: (1) Fifty per cent  
179 shall be used for the purpose of funding the environmental review  
180 teams program of the Bureau of Water Management within said  
181 department, the Council on Soil and Water Conservation established  
182 pursuant to section 22a-315 and the eight county soil and water  
183 conservation districts; and (2) fifty per cent shall be deposited into the  
184 hazard mitigation and floodplain management account established  
185 pursuant to section 7 of this act and used for grants under section 9 of  
186 this act.

187 (b) Not later than three months following the close of each fiscal  
188 year starting with fiscal year July 1, 2000, the Department of  
189 Environmental Protection shall identify those municipalities that are  
190 not in compliance with subsection (a) of this section for the previous  
191 fiscal year and shall provide the Office of Policy and Management with  
192 a list of such municipalities. The list shall be submitted annually and in  
193 such manner as the Office of Policy and Management may require. The  
194 Office of Policy and Management, when issuing the first payment from  
195 the Mashantucket Pequot and Mohegan Fund established pursuant to  
196 section 3-55i, in the fiscal year during which said list is received, shall  
197 reduce said payment to a municipality by five hundred dollars for  
198 each quarter of the preceding fiscal year that the municipality has not

199 been in compliance with subsection (a) of this section to a maximum of  
200 [two] four thousand dollars in each fiscal year. The Office of Policy and  
201 Management shall certify to the State Comptroller the amount of any  
202 funds withheld under this subsection to be transferred to the  
203 Environmental Quality Fund for the uses set forth in subsection (a) of  
204 this section, and the State Comptroller shall cause said amount to be  
205 transferred to such fund.

206 Sec. 7. (NEW) (*Effective July 1, 2002*) There is established an account  
207 to be known as the "hazard mitigation and floodplain management  
208 account". The hazard mitigation and floodplain management account  
209 shall be an account of the Environmental Quality Fund established  
210 under section 22a-27g of the general statutes. Notwithstanding any  
211 provision of the general statutes, any moneys required by law to be  
212 deposited in the account shall be deposited in the Environmental  
213 Quality Fund and credited to the hazard mitigation and floodplain  
214 management account. Any balance remaining in the account at the end  
215 of any fiscal year shall be carried forward in the account for the fiscal  
216 year next succeeding. The account shall be available to the  
217 Commissioner of Environmental Protection for the purposes of  
218 sections 8 to 12, inclusive, of this act.

219 Sec. 8. (NEW) (*Effective July 1, 2002*) As used in sections 9 to 12,  
220 inclusive, of this act:

221 (1) "Hazard mitigation" means activities that include, but are not  
222 limited to, actions taken to reduce or eliminate long-term risk to  
223 human life, infrastructure and property resulting from natural hazards  
224 including, but not limited to, flooding, high winds and wildfires; and

225 (2) "Floodplain management" means activities that include, but are  
226 not limited to, actions taken to retain the existing capacity of  
227 designated floodplain areas to store and convey flood waters.

228 Sec. 9. (NEW) (*Effective July 1, 2002*) (a) The Commissioner of  
229 Environmental Protection shall establish and administer a hazard  
230 mitigation and floodplain management grant program to reimburse



231 municipalities for costs incurred in the reduction or elimination of  
232 long-term risks to human life, infrastructure and property from natural  
233 hazards, including, but not limited to, flooding, high winds and  
234 wildfires, and in the retention of present capacity of designated  
235 floodplain areas to store and convey flood waters. Application for a  
236 grant shall be made in writing to the commissioner in such form as the  
237 commissioner may prescribe and shall include a description of the  
238 purpose, objectives and budget of the activities to be funded by the  
239 grant. The chief executive officer of the municipality applying for the  
240 grant may designate the town planner, director of public works, police  
241 chief, fire chief or emergency management director as the agent to  
242 make the application.

243 (b) The Commissioner of Environmental Protection shall establish,  
244 by regulations adopted in accordance with chapter 54 of the general  
245 statutes, relative priorities for the approval of grants under this section.  
246 Such priorities may take into account the differing needs of  
247 municipalities, the need for consistency and equity in the distribution  
248 of grant awards and the extent to which particular projects may  
249 advance the purposes of this section. The commissioner may establish  
250 further criteria for the approval of grants under this section. Not later  
251 than February 1, 2004, the commissioner shall develop and disseminate  
252 a pamphlet that describes the evaluation process for grant applications  
253 under this section. In awarding grants under this section, the  
254 commissioner shall consult with any person the commissioner deems  
255 necessary.

256 (c) The commissioner shall authorize grant awards under this  
257 section on or before July thirty-first and December thirty-first of each  
258 fiscal year in which payment of a grant is to be made.

259 (d) The commissioner shall allocate not less than sixty per cent of  
260 the moneys in the hazard mitigation and floodplain management  
261 account in any fiscal year for grants under this section.

262 Sec. 10. (NEW) (*Effective October 1, 2002*) (a) On and after July 1,

2003, the Commissioner of Environmental Protection shall make grants to municipalities from the hazard mitigation and floodplain management account, established under section 7 of this act, for hazard mitigation and floodplain management.

(b) If the commissioner finds that any grant awarded pursuant to this section is being used for other purposes or to supplant a previous source of funds, the commissioner may require repayment.

(c) The commissioner shall allocate moneys in the hazard mitigation and floodplain management account, established under section 7 of this act, in accordance with this section. The commissioner shall accord highest priority to projects which involve (1) the preparation or revision of hazard mitigation plans by municipalities, or (2) participation in the community rating system of the National Flood Insurance Program. The commissioner shall accord secondary priority to projects which involve (A) the execution of hazard mitigation projects by municipalities in accordance with approved hazard mitigation plans; and (B) costs for administering and providing financial assistance for the hazard mitigation and floodplain management grant program established under section 10 of this act.

(d) On or before September 1, 2004, and annually thereafter, the commissioner shall submit a report describing the activities performed with such allocated moneys for the preceding fiscal year to the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and the environment.

Sec. 11. (NEW) (*Effective July 1, 2002*) (a) Each municipality that receives a grant from the hazard mitigation and floodplain management account established under section 7 of this act shall submit a report to the Commissioner of Environmental Protection, in such form as the commissioner prescribes, not later than September first of the fiscal year following the year such grant was received. Such report shall contain a description of activities paid for with financial assistance under the grant. The chief executive officer of a municipality

295 that receives a grant from the hazard mitigation and floodplain  
 296 management account may designate the town planner, director of  
 297 public works, police chief, fire chief or emergency management  
 298 director of that municipality as the agent to make such report.

299 (b) On or before January 1, 2005, and annually thereafter, the  
 300 Commissioner of Environmental Protection shall submit a report on  
 301 grants made under section 10 of this act for the preceding fiscal year to  
 302 the joint standing committees of the General Assembly having  
 303 cognizance of matters relating to planning and development and the  
 304 environment. Each such report shall include: (1) A description of the  
 305 grants made, including the amount, purposes and the municipalities to  
 306 which they were made; (2) a summary of the activities for which the  
 307 Department of Environmental Protection used the moneys allocated to  
 308 it under section 8 of this act; and (3) any findings or recommendations  
 309 concerning the operation and effectiveness of the grant program.

310 Sec. 12. (NEW) (*Effective July 1, 2002*) The Commissioner of  
 311 Environmental Protection shall adopt regulations, in accordance with  
 312 the provisions of chapter 54 of the general statutes, to implement the  
 313 provisions of sections 8 to 11, inclusive, of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>July 1, 2002</i>
Sec. 7	<i>July 1, 2002</i>
Sec. 8	<i>July 1, 2002</i>
Sec. 9	<i>July 1, 2002</i>
Sec. 10	<i>October 1, 2002</i>
Sec. 11	<i>July 1, 2002</i>
Sec. 12	<i>July 1, 2002</i>

<b><i>PD</i></b>	<i>Joint Favorable Subst. C/R</i>	ENV
<b><i>ENV</i></b>	<i>Joint Favorable Subst.</i>	
<b><i>FIN</i></b>	<i>Joint Favorable</i>	